

SENATE BILL No. 279

DIGEST OF INTRODUCED BILL

Citations Affected: IC 25-23.6; IC 31-30-1-4; IC 35-45-2-1; IC 35-50.

Synopsis: Threats and gun violence. Provides that a juvenile court does not have jurisdiction over an individual: (1) at least 14 years of age who carries a handgun without a license; or (2) who uses a firearm in the commission of an offense. Makes communicating a threat with the intent to cause the evacuation of school property or a hospital a Level 6 felony. (Under current law, the offense is a Class A misdemeanor.) Adds unlawful possession of a firearm by a serious violent felon to the definition of "crime of violence". Provides that a person who uses a firearm to commit certain offenses may be sentenced to an additional term of 20 years. (Under current law, the person may be sentenced to an additional term of five to 20 years.)

Effective: July 1, 2015.

Merritt

January 7, 2015, read first time and referred to Committee on Corrections & Criminal Law.



First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 279

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 25-23.6-1-5.7, AS ADDED BY P.L.122-2009,
2 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 5.7. (a) "Practice of addiction counseling" means
4 the providing of professional services that are delivered by a licensed
5 addiction counselor, that are designed to change substance use or
6 addictive behavior, and that involve specialized knowledge and skill
7 related to addictions and addictive behaviors, including understanding
8 addiction, knowledge of the treatment process, application to practice,
9 and professional readiness. The term includes:
10 (1) gathering information through structured interview screens
11 using routine protocols;
12 (2) reviewing assessment findings to assist in the development of
13 a plan individualized for treatment services and to coordinate
14 services;
15 (3) referring for assessment, diagnosis, evaluation, and mental
16 health therapy;



- (4) providing client and family education related to addictions;
- (5) providing information on social networks and community systems for referrals and discharge planning;
- (6) participating in multidisciplinary treatment team meetings or consulting with clinical addiction professionals;
- (7) counseling, through individual and group counseling, as well as group and family education, to treat addiction and substance abuse in a variety of settings, including:

- (A) mental and physical health facilities; and

- (B) child and family service agencies; and

- (8) maintaining the highest level of professionalism and ethical responsibility.

(b) The term does not include the use of psychotherapy or diagnosis (as defined in IC 25-22.5-1-1.1(c) or as defined as the practice of psychology under IC 25-33-1-2(a)).

(c) For an individual who obtains a license as an addiction counselor by:

- (1) holding a valid:

- (A) level II or higher certification or the equivalent certification from a credentialing agency approved by the division of mental health and addiction; or

- (B) certification as an addiction counselor or addiction therapist from a credentialing agency that is approved by the board;

- (2) having at least ten (10) years of experience in addiction counseling;

- (3) furnishing satisfactory evidence to the board that the individual does not have:

- (A) a conviction for a crime of violence (as defined in ~~IC 35-50-1-2(a)(1) through IC 35-50-1-2(a)(13);~~ **IC 35-50-1-2**); or

- (B) a conviction in the previous two (2) years that has a direct bearing on the individual's ability to practice competently; and

(4) filing an initial application with the board before July 1, 2010; the term includes the provision of addiction counseling services in private practice in consultation with other licensed professionals as required by the client's individualized treatment plan.

SECTION 2. IC 25-23.6-10.5-1, AS ADDED BY P.L.122-2009, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. An individual who applies for a license as an addiction counselor must meet the following requirements:

- (1) Furnish satisfactory evidence to the board that the individual



has:

(A) received a baccalaureate or higher degree in addiction counseling or in a related area as determined by the board from:

(i) an eligible postsecondary educational institution that meets the requirements under section 3(1) of this chapter; or

(ii) a foreign school that has a program of study that meets the requirements under section 3(2) or 3(3) of this chapter;

(B) completed the educational requirements under section 5 of this chapter; and

(C) completed the experience requirements under section 7 of this chapter.

(2) Furnish satisfactory evidence to the board that the individual does not have a:

(A) conviction for a crime of violence (as defined in ~~IC 35-50-1-2(a)(1) through IC 35-50-1-2(a)(13);~~ **IC 35-50-1-2**); or

(B) conviction in the previous two (2) years that has a direct bearing on the individual's ability to practice competently.

(3) Furnish satisfactory evidence to the board that the individual has not been the subject of a disciplinary action by a licensing or certification agency of another state or jurisdiction on the grounds that the individual was not able to practice as an addiction counselor without endangering the public.

(4) Pass an examination established by the board.

(5) Pay the fee established by the board.

SECTION 3. IC 25-23.6-10.5-2, AS ADDED BY P.L.122-2009, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. An individual who applies for a license as a clinical addiction counselor must meet the following requirements:

(1) Furnish satisfactory evidence to the board that the individual has:

(A) received a master's or doctor's degree in addiction counseling, addiction therapy, or a related area as determined by the board from an eligible postsecondary educational institution that meets the requirements under section 4(a)(1) of this chapter or from a foreign school that has a program of study that meets the requirements under section 4(a)(2) or 4(a)(3) of this chapter;

(B) completed the educational requirements under section 6 of this chapter; and

(C) completed the experience requirements under section 8 of



- 1 this chapter.
- 2 (2) Furnish satisfactory evidence to the board that the individual
- 3 does not have a:
- 4 (A) conviction for a crime of violence (as defined in
- 5 ~~IC 35-50-1-2(a)(1) through IC 35-50-1-2(a)(13);~~
- 6 **IC 35-50-1-2);** or
- 7 (B) conviction in the previous two (2) years that has a direct
- 8 bearing on the individual's ability to practice competently.
- 9 (3) Furnish satisfactory evidence to the board that the individual
- 10 has not been the subject of a disciplinary action by a licensing or
- 11 certification agency of another state or jurisdiction on the grounds
- 12 that the individual was not able to practice as a clinical addiction
- 13 counselor without endangering the public.
- 14 (4) Pass an examination established by the board.
- 15 (5) Pay the fee established by the board.
- 16 SECTION 4. IC 31-30-1-4, AS AMENDED BY P.L.168-2014,
- 17 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 18 JULY 1, 2015]: Sec. 4. (a) The juvenile court does not have jurisdiction
- 19 over an individual for an alleged violation of:
- 20 (1) IC 35-41-5-1(a) (attempted murder);
- 21 (2) IC 35-42-1-1 (murder);
- 22 (3) IC 35-42-3-2 (kidnapping);
- 23 (4) IC 35-42-4-1 (rape);
- 24 (5) IC 35-42-4-2 (criminal deviate conduct) (before its repeal);
- 25 (6) IC 35-42-5-1 (robbery) if:
- 26 (A) the robbery was committed while armed with a deadly
- 27 weapon; or
- 28 (B) the robbery results in bodily injury or serious bodily
- 29 injury;
- 30 (7) IC 35-42-5-2 (carjacking) (before its repeal);
- 31 (8) IC 35-47-2-1 (carrying a handgun without a license), if:
- 32 (A) charged as a felony; **or**
- 33 **(B) committed by an individual at least fourteen (14) years**
- 34 **of age;**
- 35 (9) IC 35-47-10 (children and firearms), if charged as a felony;
- 36 (10) IC 35-47-5-4.1 (dealing in a sawed-off shotgun);
- 37 **(11) any offense, if the individual uses a firearm in the**
- 38 **commission of the offense; or**
- 39 ~~(11)~~ **(12) any offense that may be joined under IC 35-34-1-9(a)(2)**
- 40 **with any crime listed in subdivisions (1) through (10); this**
- 41 **subsection;**
- 42 if the individual was at least sixteen (16) years of age at the time of the



1 alleged violation.

2 (b) Once an individual described in subsection (a) has been charged
3 with any crime listed in subsection (a), the court having adult criminal
4 jurisdiction shall retain jurisdiction over the case even if the individual
5 pleads guilty to or is convicted of a lesser included offense. A plea of
6 guilty to or a conviction of a lesser included offense does not vest
7 jurisdiction in the juvenile court.

8 SECTION 5. IC 35-45-2-1, AS AMENDED BY P.L.168-2014,
9 SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2015]: Sec. 1. (a) A person who communicates a threat to
11 another person, with the intent:

12 (1) that the other person engage in conduct against the other
13 person's will;

14 (2) that the other person be placed in fear of retaliation for a prior
15 lawful act; or

16 (3) of:

17 (A) causing:

18 (i) a dwelling, a building, or other structure; or

19 (ii) a vehicle;

20 to be evacuated; or

21 (B) interfering with the occupancy of:

22 (i) a dwelling, building, or other structure; or

23 (ii) a vehicle;

24 commits intimidation, a Class A misdemeanor.

25 (b) However, the offense is a:

26 (1) Level 6 felony if:

27 (A) the threat is to commit a forcible felony;

28 (B) the person to whom the threat is communicated:

29 (i) is a law enforcement officer;

30 (ii) is a witness (or the spouse or child of a witness) in any
31 pending criminal proceeding against the person making the
32 threat;

33 (iii) is an employee of a school or school corporation;

34 (iv) is a community policing volunteer;

35 (v) is an employee of a court;

36 (vi) is an employee of a probation department;

37 (vii) is an employee of a community corrections program;

38 (viii) is an employee of a hospital, church, or religious
39 organization; or

40 (ix) is a person that owns a building or structure that is open
41 to the public or is an employee of the person;

42 and, except as provided in item (ii), the threat is



communicated to the person because of the occupation, profession, employment status, or ownership status of the person as described in items (i) through (ix) or based on an act taken by the person within the scope of the occupation, profession, employment status, or ownership status of the person;

(C) the person has a prior unrelated conviction for an offense under this section concerning the same victim; ~~or~~

(D) the threat is communicated using property, including electronic equipment or systems, of a school corporation or other governmental entity; **or**

(E) the threat is communicated with the intent of causing the evacuation of:

(i) school property; or

(ii) a hospital licensed under IC 16-21; and

(2) Level 5 felony if:

(A) while committing it, the person draws or uses a deadly weapon; or

(B) the person to whom the threat is communicated:

(i) is a judge or bailiff of any court; or

(ii) is a prosecuting attorney or a deputy prosecuting attorney.

(c) "Communicates" includes posting a message electronically, including on a social networking web site. ~~(as defined in IC 35-42-4-12(d)).~~

(d) "Threat" means an expression, by words or action, of an intention to:

(1) unlawfully injure the person threatened or another person, or damage property;

(2) unlawfully subject a person to physical confinement or restraint;

(3) commit a crime;

(4) unlawfully withhold official action, or cause such withholding;

(5) unlawfully withhold testimony or information with respect to another person's legal claim or defense, except for a reasonable claim for witness fees or expenses;

(6) expose the person threatened to hatred, contempt, disgrace, or ridicule;

(7) falsely harm the credit or business reputation of the person threatened; or

(8) cause the evacuation of a dwelling, a building, another structure, or a vehicle.



SECTION 6. IC 35-50-1-2, AS AMENDED BY P.L.168-2014,
SECTION 108, IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2015]: Sec. 2. (a) As used in this section,
"crime of violence" means the following:

- (1) Murder (IC 35-42-1-1).
- (2) Attempted murder (IC 35-41-5-1).
- (3) Voluntary manslaughter (IC 35-42-1-3).
- (4) Involuntary manslaughter (IC 35-42-1-4).
- (5) Reckless homicide (IC 35-42-1-5).
- (6) Aggravated battery (IC 35-42-2-1.5).
- (7) Kidnapping (IC 35-42-3-2).
- (8) Rape (IC 35-42-4-1).
- (9) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
- (10) Child molesting (IC 35-42-4-3).
- (11) Sexual misconduct with a minor as a Level 1 felony under IC 35-42-4-9(a)(2) or a Level 2 felony under IC 35-42-4-9(b)(2).
- (12) Robbery as a Level 2 felony or a Level 3 felony (IC 35-42-5-1).
- (13) Burglary as a Level 1 felony, Level 2 felony, Level 3 felony, or Level 4 felony (IC 35-43-2-1).
- (14) Operating a vehicle while intoxicated causing death (IC 9-30-5-5).
- (15) Operating a vehicle while intoxicated causing serious bodily injury to another person (IC 9-30-5-4).
- (16) Resisting law enforcement as a felony (IC 35-44.1-3-1).
- (17) Unlawful possession of a firearm by a serious violent felon (IC 35-47-4-5).**

(b) As used in this section, "episode of criminal conduct" means offenses or a connected series of offenses that are closely related in time, place, and circumstance.

(c) Except as provided in subsection (d) or (e), the court shall determine whether terms of imprisonment shall be served concurrently or consecutively. The court may consider the:

- (1) aggravating circumstances in IC 35-38-1-7.1(a); and
- (2) mitigating circumstances in IC 35-38-1-7.1(b);

in making a determination under this subsection. The court may order terms of imprisonment to be served consecutively even if the sentences are not imposed at the same time. However, except for crimes of violence, the total of the consecutive terms of imprisonment, exclusive of terms of imprisonment under IC 35-50-2-8 and IC 35-50-2-10 (before its repeal) to which the defendant is sentenced for felony convictions arising out of an episode of criminal conduct shall not



1 exceed the advisory sentence for a felony which is one (1) class of
 2 felony higher than the most serious of the felonies for which the person
 3 has been convicted.

4 (d) If, after being arrested for one (1) crime, a person commits
 5 another crime:

6 (1) before the date the person is discharged from probation,
 7 parole, or a term of imprisonment imposed for the first crime; or

8 (2) while the person is released:

9 (A) upon the person's own recognizance; or

10 (B) on bond;

11 the terms of imprisonment for the crimes shall be served consecutively,
 12 regardless of the order in which the crimes are tried and sentences are
 13 imposed.

14 (e) If the factfinder determines under IC 35-50-2-11 that a person
 15 used a firearm in the commission of the offense for which the person
 16 was convicted, the term of imprisonment for the underlying offense and
 17 the additional term of imprisonment imposed under IC 35-50-2-11
 18 must be served consecutively.

19 SECTION 7. IC 35-50-2-11, AS AMENDED BY P.L.152-2014,
 20 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2015]: Sec. 11. (a) As used in this section, "firearm" has the
 22 meaning set forth in IC 35-47-1-5.

23 (b) As used in this section, "offense" means:

24 (1) a felony under IC 35-42 that resulted in death or serious bodily
 25 injury;

26 (2) kidnapping; or

27 (3) criminal confinement as a Level 2 or Level 3 felony.

28 (c) The state may seek, on a page separate from the rest of a
 29 charging instrument, to have a person who allegedly committed an
 30 offense sentenced to an additional fixed term of imprisonment if the
 31 state can show beyond a reasonable doubt that the person knowingly or
 32 intentionally used a firearm in the commission of the offense.

33 (d) If the person was convicted of the offense in a jury trial, the jury
 34 shall reconvene to hear evidence in the enhancement hearing. If the
 35 trial was to the court, or the judgment was entered on a guilty plea, the
 36 court alone shall hear evidence in the enhancement hearing.

37 (e) If the jury (if the hearing is by jury) or the court (if the hearing
 38 is to the court alone) finds that the state has proved beyond a
 39 reasonable doubt that the person knowingly or intentionally used a
 40 firearm in the commission of the offense, the court may sentence the
 41 person to an additional fixed term of imprisonment of ~~between five (5)~~
 42 ~~years and~~ twenty (20) years.

